

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA**

<b>IN RE:</b>	)	<b>CHAPTER 11</b>
	)	
<b>FREEDOM INDUSTRIES, INC.,</b>	)	<b>CASE NO. 14-20017</b>
	)	
<b>DEBTOR.</b>	)	<b>HON. RONALD PEARSON</b>

**STATEMENT OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS IN  
SUPPORT OF APPROVAL OF AMENDED DISCLOSURE STATEMENT TO  
ACCOMPANY PLAN OF LIQUIDATION UNDER CHAPTER 11 OF THE  
BANKRUPTCY CODE PROPOSED BY FREEDOM INDUSTRIES, INC.**

The Official Committee of Unsecured Creditors of Freedom Industries, Inc. (the “Committee”), by its undersigned counsel, Frost Brown Todd LLC, files this statement in support of approval of the First Modified Amended Disclosure Statement to Accompany Plan of Liquidation Under Chapter 11 of the Bankruptcy Code Proposed by Freedom Industries, Inc. (the “Amended Disclosure Statement”) (Doc. No. 852).

1. On June 17, 2015, Freedom Industries, Inc. (the “Debtor”) filed the Amended Disclosure Statement and Amended Plan of Liquidation Under Chapter 11 of the Bankruptcy Code Proposed by Freedom Industries, Inc. Dated June 17, 2015 (the “Amended Plan”) (Doc. No. 815).<sup>1</sup> On July 8, 2015, this Court entered its Order Approving Debtor’s Expedited Motion to Approve Settlement Agreement Among the Debtor, West Virginia Department of Environmental Protection, Chemstream Holdings, Inc. and Certain Third Party Plaintiffs (the “WVDEP Settlement Order”) (Doc. No. 836). The WVDEP Settlement Order and Amended Plan are key components to allow the Debtor to completely remediate the Etowah River Terminal site and to conclude this chapter 11 case for the benefit of all creditors and parties in interest.

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<sup>1</sup> The Debtor filed a First Modified Chapter 11 Plan on July 26, 2015. See Doc. No. 852. The Amended Plan and First Modified Chapter Plan are collectively referred to herein as the “Amended Plan”).

2. Prior to filing the WVDEP settlement documents and the Amended Plan, the Debtor, through its counsel and the CRO, provided the Committee with: (a) prior drafts of the settlement documents; (b) prior drafts of the Amended Plan and Amended Disclosure Statement; (c) documents and information related to the WVDEP settlement and the Amended Plan; and (e) other information requested by the Committee. The Committee and certain of its members have also actively participated in numerous meetings, conference calls and other communications with the Debtor, CRO and other interested parties regarding the Disclosure Statement and the Amended Plan. Ultimately, the Committee believes the Amended Plan is a fair resolution of this chapter 11 case that presents the best possible outcome for the constituencies under the circumstances.

3. Entry of the WVDEP Settlement Order was critical to the chapter 11 estate because it provides the funds necessary to properly complete the remediation of the Etowah River Terminal site in accordance with WVDEP standards, which is extremely important to the Committee. In addition, entry of the WVDEP Settlement Order enables the Debtor to confirm and implement the Amended Plan. Confirmation of the Amended Plan allows certain creditor groups, including Spill Claimants with claims of \$3,000 or less, to receive distributions from the estate in relatively quick order.<sup>2</sup> The Amended Plan also administers the remaining assets of the Debtor in a manner that is fair and equitable to all classes of creditors. The Committee supports approval of the Amended Disclosure Statement and confirmation of the Amended Plan.

4. The Committee requests that the Court allow it to submit a letter in support of confirmation of the Amended Plan in the solicitation packages to be sent to creditors for voting

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<sup>2</sup> These claims are called Class 4 Convenience Spill Claims under the Amended Plan. It is the hope of the Committee that confirmation of the Amended Plan will allow the citizens of Charleston to receive distributions on their allowed claims as soon as is practical after the Amended Plan is effective.

on the Amended Plan (the “Support Letter”). The Support Letter will also be issued on behalf of counsel to certain Third Party Plaintiffs who represent many of the Spill Claimants in this case.

A copy of a draft of the Support Letter is attached hereto as Exhibit A.<sup>3</sup>

**WHEREFORE**, the Committee respectfully requests that this Court enter an Order:

- A. Approving the Amended Disclosure Statement;
- B. Scheduling a hearing on confirmation of the Amended Plan;
- C. Authorizing the Committee to include the Support Letter in the solicitation packages for the Amended Plan; and
- D. Granting such other and further relief as this Court deems just and appropriate

under the circumstances.

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<sup>3</sup> A copy of the Support Letter was also attached as an exhibit to the Committee’s Statement in Support of the WVDEP Settlement Motion. See Doc. No. 819. The Support Letter will be issued by counsel for the Creditors’ Committee, counsel for the Good Plaintiffs, and counsel for the Bar 101 and Smith Plaintiffs.

Dated: July 24, 2015

Respectfully submitted,

**FROST BROWN TODD LLC**

By: /s/ Jared M. Tully

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**COUNSEL FOR THE OFFICIAL  
COMMITTEE OF UNSECURED  
CREDITORS OF FREEDOM  
INDUSTRIES, INC.**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing *Statement of the Official Committee of Unsecured Creditors in Support of Approval of Amended Disclosure Statement to Accompany Plan of Liquidation Under Chapter 11 of the Bankruptcy Code Proposed by Freedom Industries, Inc.* was served by this Court's CM/ECF system on July 27, 2015 to all parties having registered in this case under the Court's CM/ECF system.

/s/ Jared M. Tully

Jared M. Tully

**EXHIBIT A**

**COMMITTEE/THIRD PARTY PLAINTIFF  
COUNSEL PLAN SUPPORT LETTER**

July \_\_\_, 2015

To: Unsecured Creditors of Freedom Industries, Inc.

Re: Freedom Industries, Inc. (Case No. 14-20017)  
Statement of Official Committee of Unsecured Creditors and Lead Counsel for Bar 101 Plaintiffs, Good Plaintiffs and Smith Plaintiffs in Support of First Modified Amended Plan of Liquidation Under Chapter 11 of the Bankruptcy Code Proposed by Freedom Industries, Inc.

Dear Creditors:

We are: (a) counsel to the Official Committee of Unsecured Creditors (the "Committee") of Freedom Industries, Inc. (collectively, "Freedom" or the "Debtor") in its chapter 11 case pending before Chief Bankruptcy Judge Ronald G. Pearson in the United States Bankruptcy Court for the Southern District of West Virginia (the "Bankruptcy Court"); (b) counsel for the plaintiffs in Scott Miller, Bar 101, LLC and Ichiban consolidated under Desimone Hospitality Servies, LLC, et al. v. West Virginia American Water Company, et al., Civil Action No. 2:14-cv-14845 (the "Bar 101 Plaintiffs"); (c) counsel for Crystal Good M.T.S, N.K.T, A.M.S., Melissa Johnson, Aladdin Restaurant, Inc., Georgia Hamra, Mary Lacy, Joan Green, Jamila Aisha Oliver, Wendy Renee Ruiz, Kimberly Ogier, Roy J. McNeal, Maddie Fields, R.G. Gunnoe Farms LLC and Dunbar Plaza, Inc., consolidated under Good et al. v. American Water Company, Inc., et al., Civil Action No. 2:14-cv-01374 (the "Good Plaintiffs"), and (iii) counsel for certain putative class representatives that previously contemplated filing a class action lawsuit for settlement purposes with Freedom, including Stephen N. Smith, Fuji LLC d/b/a Fuji's Sushi & Teriyaki, Fuji LLC d/b/a Fuji Reef Shop & Salt Water Pet Shop, and Hartman & Tyler, Inc. d/b/a Mardi Gras Casino & Resort (the "Smith Plaintiffs").

On February 5, 2014, the Committee was appointed by the Office of the United States Trustee for the Southern District of West Virginia. The Committee, representing the interests of all unsecured creditors of the Debtor, supports confirmation of the First Modified Amended Plan of Liquidation Under Chapter 11 of the Bankruptcy Code Proposed by Freedom Industries, Inc. (the "Plan"). The Committee recommends that all creditors review the Plan and Disclosure Statement and vote to accept the Plan by completing and returning the enclosed ballot.

Counsel for the Bar 101 Plaintiffs, the Good Plaintiffs and the Smith Plaintiffs, representing the plaintiffs in each of these litigations, also support confirmation of the Plan. Counsel for the Bar 101, Good Plaintiffs and Smith Plaintiffs recommend that all creditors review the Plan and Disclosure Statement and vote to accept the Plan by completing and returning the enclosed ballot.

A copy of the Plan and the Disclosure Statement for the Plan containing detailed information regarding the Debtor, their businesses, the history and events of the Debtor's chapter 11 case, and the proposed treatment to various classes of creditors, including general unsecured creditors and spill claimants (the "Disclosure Statement") is available for your electronic review and/or download at the website: \_\_\_\_\_.

Alternatively, you may obtain a free print copy of the Plan and Disclosure Statement by contacting the Debtors' Solicitation and Balloting Agent:

[NAME]  
[ADDRESS]

You should review the Plan and Disclosure Statement carefully. As set forth in the Plan and Disclosure Statement, the Plan provides for: (a) funding to allow the Debtor to remediate its Etowah River Terminal site in accordance with standards approved by the West Virginia Department of Environmental Protection (the "WVDEP"); (b) \$350,000, plus 25% of all net litigation proceeds until such time as Professional Fee Expense Claims are paid in full, and then 50% of all net litigation proceeds until such time as \$7,000,000 has been paid to the holder of the Professional Fee Escrow Account and the GC Plan Administrator, all to be paid pro-rata to the holders of Class 3 General Unsecured Claims; (c) \$500,000 to be paid pro-rata for the benefit of holders of Class 4 Convenience Spill Claims, who are holders of spill claims of \$3,000 or less, and those holders of spill claims that elect to participate as a holder of a Class 4 Convenience Spill Claim; and (d) payment of 50% of the cash available on the Effective Date of the Plan (estimated to be \$1,470,983), plus 50% of the amount remaining, if any, in the environmental remediation fund after DEP issues a certificate of completion for the Etowah River Terminal, plus 50% of the net litigation proceeds until the GC Plan Administrator and holder of the Professional Fee Account receive \$7,000,000, and then 100% of the net litigation proceeds to be paid pro-rata to the holders of Class 5 Spill Claims.

The Plan was drafted by counsel for the Debtor with significant input from the Committee. The Committee and counsel for the Bar 101, Good and Smith Plaintiffs believe that the Plan provides a treatment of your claim that is fair and equitable and supports the Debtor's efforts to obtain approval of the Plan.

Enclosed herewith is a ballot and voting instructions. The voting deadline is \_\_\_\_\_. Please complete and submit your ballots in accordance with the enclosed instructions so that they are received no later than the voting deadline.

Very truly yours,

**FROST BROWN TODD LLC**

Douglas L. Lutz  
Ronald E. Gold

*Counsel to the Committee*

**THOMPSON BARNEY PLLC**

Kevin W. Thompson

*Counsel to Good Plaintiffs*

**POWELL & MAJESTRO PLLC**

Anthony J. Majestro

*Counsel to Bar 101 and Smith Plaintiffs*

**COMMITTEE MEMBERS**

Archer Daniels Midland

Hartman & Tyner, Inc., dba Mardi Gras Casino

Rogers Electrical Contracting Company, Inc.

Stephen Smith

West Virginia American Water